

§ 928.32

7 CFR Ch. IX (1-1-07 Edition)

(c) To submit to the Secretary prior to each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To require adequate fidelity bonds for all persons handling funds;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To provide an adequate system for estimating the total season crop of papayas and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(j) To investigate the growing, handling, and marketing conditions with respect to papayas, and to assemble data in connection therewith;

(k) To engage in such research relating to the determination of maturity and grade standards for papayas as may be approved by the Secretary;

(l) To submit to the Secretary such available information, including verified reports, as he may request;

(m) To notify producers and handlers of meetings of the committee to consider recommendations for regulation;

(n) To investigate compliance with the provisions of this part; and

(o) With the approval of the Secretary, to redefine the districts into which the production area is divided, to reapportion the grower member representation on the committee among the districts, to increase or decrease the number of grower and handler members and alternates on the committee, and to change the composition

of the committee by changing the ratio between grower and handler members including their alternates. Any such changes shall reflect, insofar as practicable, structural changes within the papaya industry and shifts in papaya production among the districts within the production area.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988; 53 FR 44551, Nov. 3, 1988]

§ 928.32 Procedure.

(a) A majority of all members of the committee, including alternates acting for members, shall be necessary to constitute a quorum and such majority must concur to approve any committee action.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

(c) All meetings of the committee held for the purpose of formulating a marketing policy, for formulating recommendations for regulations, or for consideration of matters pertaining to production research, marketing research and development projects, including paid advertising shall be open to the growers and handlers. The committee shall give notice to each grower and handler who has requested such notice and has filed his name and address with the committee.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988]

§ 928.33 Expenses and compensation.

The members of the committee and alternates when acting as members, or when requested by the committee to attend a committee meeting or to perform another committee function, may be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

§ 928.34 Annual report.

The committee may, as soon as practicable after the end of the fiscal year, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who

Agricultural Marketing Service, USDA

§ 928.42

requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal year; (b) an appraisal of the effect of such regulatory operations upon the papaya industry; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ 928.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 928.41.

§ 928.41 Assessments.

(a) Each person who first handles papayas shall, with respect to the papayas so handled by him, pay to the committee upon demand such person's pro rate share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of papayas handled by him as the first handler thereof during the applicable fiscal year and the total quantity of papayas so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such expenses shall be applied to all papayas handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this

part during the first part of a fiscal year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose. Assessments not paid within a period of time prescribed by the committee may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary. When such interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988]

§ 928.42 Accounting.

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such expenses shall be accounted for as follows:

(1) Except as provided in paragraphs (a) (2) and (3) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of this pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount not to exceed approximately 1 fiscal year's operational expense. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § 928.40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned